



INTERIOR BOARD OF INDIAN APPEALS

Sac and Fox Nation of Missouri, et al. v. Assistant Secretary - Indian Affairs

37 IBIA 222 (04/17/2002)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

SAC AND FOX NATION OF MISSOURI,	:	Order Docketing and Dismissing
IOWA TRIBE OF KANSAS AND	:	Appeal
NEBRASKA, PRAIRIE BAND OF	:	
POTAWATOMI INDIANS, and	:	
GOVERNOR OF THE STATE OF	:	
KANSAS,	:	
Appellants	:	Docket No. IBIA 02-89-A
	:	
v.	:	
	:	
ASSISTANT SECRETARY - INDIAN	:	
AFFAIRS,	:	
Appellee	:	April 17, 2002

Appellants Sac and Fox Nation of Missouri, Iowa Tribe of Kansas and Nebraska, Prairie Band of Potawatomi Indians, and Governor of the State of Kansas seek review of a notice published in the Federal Register on March 11, 2002. 67 Fed. Reg. 10926. The notice, which was signed by the Assistant Secretary - Indian Affairs, made a determination concerning the origin of funds which the Wyandotte Tribe of Oklahoma used to purchase a tract of land identified as the Shriners Building in Kansas City, Kansas. The Assistant Secretary determined that the funds for the purchase were derived from the Act of Oct. 30, 1984, Pub. L. No. 98-602, 98 Stat. 3149, which provided for the use and distribution of certain judgment funds awarded to the Wyandotte Tribe. Section 105(b)(1) of that act provides that "\$100,000 of such funds shall be used for the purchase of real property which shall be held in trust by the Secretary for the benefit of" the Wyandotte Tribe. Based on the finding as to the origin of the purchase funds, the Assistant Secretary further determined that the tract was held in trust for the Wyandotte Tribe.

Appellants ask the Board to review these determinations.

The Board has previously stated that it is not a court of general jurisdiction, but rather has only that authority delegated to it by the Secretary of the Interior. It has not been delegated general authority to review decisions of the Assistant Secretary. Instead, it has authority to review those decisions only when the decision at issue specifically grants a right of appeal to the Board or there is a regulation granting such a right. See, e.g., Scotts Valley Band of Pomo Indians of California v. Assistant Secretary - Indian Affairs, 35 IBIA 89 (2000); Kawerak, Inc. v. Assistant Secretary - Indian Affairs, 28 IBIA 66 (1995). Here, no regulation established a

right to appeal this type of decision to the Board, and the Assistant Secretary did not provide for such review in the notice at issue. Under these circumstances, the Board lacks authority to review the Assistant Secretary's decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the Assistant Secretary's March 11, 2002, Federal Register notice is docketed but dismissed for lack of jurisdiction.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge